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## APPLICATION GRANTED

For the reasons set forth herein, the Court is prepared to make the necessary CARES Act findings in order for the guilty plea proceeding to be conducted by video conference (or by telephone conference if video conferencing is not reasonably available). The change of plea hearing is tentatively scheduled for 12/11/2020 at 9:00 a.m. Chambers will be in contact with counsel to confirm this date and time. In the event the matter needs to be rescheduled because of the current scheduling protocols involving detained defendants, Chambers will so advise counsel. The motion deadline as to defendant Gonzalez only is stayed.

SO ORDERED:

Vincent L. Briccetti, U.S.D.J.

12/1/2020

Re: *USA v. Gustavo Gonzalez*, 19-Cr-700 (VB)  
Motion for Videoconference Plea Hearing

Dear Judge Briccetti:

I am appointed to represent the defendant Gustavo Gonzalez. The parties have reached a plea agreement in the above matter and the defendant through counsel has requested the scheduling of a plea by video conference. For the reasons detailed in this letter, pursuant to the CARES Act, the defendant wishes to waive his physical appearance for the hearing and to proceed by video conference (not telephone conference) to enter his guilty plea in accordance with the plea agreement. A calendar date for such a plea has been scheduled to occur before the Court on December 11, 2020 at 9:00 a.m.

Pursuant to § 15002(b)(2)(A) of the CARES Act, guilty pleas and sentencing may proceed by video conference or by telephone: first, if the chief judge of the district "specifically finds . . . that felony pleas under Rule 11 of the Federal Rules of Criminal Procedure and felony sentencing under Rule 32 of the Federal Rules of Criminal Procedure cannot be conducted in person without seriously jeopardizing public health and safety."<sup>1</sup> And second, if "the district judge in a particular case find for specific reasons that the plea or sentencing in that case cannot be further delayed without serious harm to the interests of justice . . . ."

<sup>1</sup> By Standing Order dated March 30, 2020, Chief Judge Colleen McMahon made such finding. *See, In Re: CORONAVIRUS/COVID-19 PANDEMIC*, 20 MC 176 (CM) at 3.

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Hon. Vincent L. Briccetti

December 1, 2020

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The defendant has been in institutional confinement since September of 2019. The Court is well aware of the dangers of the virus spreading to individuals who are incarcerated. Removing him from the facility for purposes of in person appearance exposes him and fellow inmates and court personnel to the possibility of contagion.

This case has been pending since October 2019 and has been the subject of protracted discovery, plea negotiations and finally an anticipated resolution. Due to the foregoing in addition to the unnecessary risk to the health of the defendant, the United States Marshals and to the persons in the courthouse that his personal appearance there would pose, as well as an unnecessary further delay in the proceedings, I write to the Court to request that Your Honor find that the defendant's plea "cannot be further delayed without serious harm to the interests of justice," and that the plea hearing may therefore proceed by video conference.

I have fully explained to Mr. Gonzalez his right to be physically present at the time of his plea and he knowingly, intelligently, and voluntarily waives that right and agrees to proceed by video conference. At the last Court appearance, the Court set a briefing schedule for motions starting December 4, 2020 and both the Government and I ask that in light of this anticipated plea that the motion practice as to Mr. Gonzalez be stayed.

I am informed that the Government has no objection to this application. Thank you, Your Honor, for your consideration of the matter.

Very truly yours,

  
Stephen R. Lewis

SRL:dc

cc: AUSA James Ligtenberg (via ECF and email - [james.ligtenberg@usdoj.gov](mailto:james.ligtenberg@usdoj.gov))  
Gustavo Gonzalez (via regular mail)